

**DECISION**  
**TALBOT COUNTY BOARD OF APPEALS**  
**Appeal No. 18-1690**

Pursuant to due notice, a public hearing was held by the Talbot County Board of Appeals at the Bradley Meeting Room, Court House, South Wing, 11 North Washington Street, Easton, Maryland, beginning at 6:30 p.m. on January 14, 2019, on the application of **JOHN FLANNIGAN** (the “Applicant”). The Applicant is requesting two special exceptions for: (1) restaurants, bars and nightclubs with outdoor events use; and (2) accessory event venue use. The Applicant is seeking approval for a restaurant with live music events to occur on any day between Wednesday and Sunday, from April 15 through November 15 each year. Outdoor events are proposed to begin no earlier than 10 a.m., with the exception of Sunday, when no music will be played prior to noon, and to end no later than 10 p.m. Applicant also seeks accessory event venue approval of 42 events per calendar year, with a maximum capacity of 250 per event. Such events are also proposed between 10 a.m. and 10 p.m., with the exception of Sunday, when no music will be played prior to noon. Noise levels will not be in excess of 60 dBA during daytime hours or 55 dBA during nighttime hours. No event will last longer than five hours, and no more than one event will occur per day.<sup>1</sup>

The Property comprises 6.578 acres, more or less, and is located at 21551 Chesapeake House Drive, Tilghman, Maryland 21671 in the Village Mixed (“VM”) zone. It is shown on tax map 44A, grid 0 as parcel 149. The Property is the site of a restaurant, hotel and marina, Wylder Hotel Tilghman Island (“Wylder”). The owner of the Property is 21551 Chesapeake, LLC. The request is made in accordance with Chapter 190 Zoning, Article II, §190-10; Article IV, §190-

---

<sup>1</sup> Mr. Smith noted for the record that the scope of the application was modified based on Planning Commission recommendations, to include the Sunday start time restriction, change the requested number of accessory events from 50 to 42 and a maximum length of five hours per event, with no more than one event per day.

29.4; Article IV, §190-33.11; Article V, §190-40; and Article VII, §190-56 of the *Talbot County Code* (the “Code”).

Present at the hearing were Board of Appeals members Phillip Jones, Chairman; Frank Cavanaugh, Vice Chairman; Louis Dorsey, John Sewell and Paul Shortall. Zachary Smith, Esq., 114 Bay Street C, Easton, Maryland 21601, appeared on behalf of the Applicant. Brennan Tarleton, Planner I; Miguel Salinas, Assistant Planning Officer; and Mike Duell, Chief Code Compliance Officer, attended the hearing on behalf of Talbot County. Approximately 50 additional members of the public were present. William C. Chapman was the attorney for the Board of Appeals (the “Board”). It was noted for the record that each member of the Board had individually visited the site.

The following exhibits were offered and admitted into evidence as Board’s Exhibits as indicated:

1. Application for Special Exception with Attachment A.
2. Tax Map of subject property.
3. Map of 1,000-foot Radius
4. Notice of Public Hearing for *The Star Democrat*.
5. Newspaper Confirmation.
6. Notice of Public Hearing with Adjacent Property Owner list.
7. Standards for Special Exception.
8. Staff Report prepared by Brennan Tarleton, received December 31, 2018.
9. Planning Commission’s Recommendation.
10. Decision Summary, January 9, 2019 Continuation Meeting.
11. Critical Area Commission Comments, dated December 27, 2018.

12. Independent Procedures Disclosure and Acknowledgement Form.
13. Sign Maintenance Agreement.
14. Aerial Photo (two pages).
15. Site Plan by ALTA/NSPS Land Title Survey, (three pages).
16. Site Plan, received on October 25, 2018.
17. Site Plan updated on January 11, 2019.
18. 2018 Legislative Session, Bill No. 1403.
19. Noise Compliance Plan from Wylder Hotel, received January 10, 2019.
20. Letter from Mike and Carol Richards, dated December 13, 2018.
21. Letter from John Flannigan, dated, December 14, 2018.
22. Email with attachments from John Flannigan to Miguel Salinas on December 19, 2018.
23. Email from Travis and Becky Daniel, dated December 31, 2018.
24. Letter from Christina Higgins, dated December 29, 2018.
25. Letter from Rondy Alstrom, dated December 27, 2018.
26. Letter from Dawn Lednum, dated December 31, 2018 along with a one-page ranking report run on 12/29/18.
27. Email from Robert Ebel, dated December 31, 2018.
28. Email from Dawn Lednum with reports dating to 2012-2018, dated December 31, 2018.
29. Email from Mary Kempf, dated January 2, 2019.
30. Email from Patricia McGlannan, dated December 31, 2018.
31. Email from Bob Jones, dated January 2, 2019.

32. Email from Leslie Steen, dated December 31, 2018.
33. Email from Mary Wyatt, dated January 8, 2019.
34. Email from Christina Higgins, dated January 9, 2019.
35. Email from Anita Fawcett, dated January 9, 2019.
36. Email from Leo Myzick, dated January 10, 2019.
37. Email from Bob Jones, dated January 10, 2019.
38. Email from Nancy and Ron Callahan, dated January 10, 2019.
39. Email from Doak Conn, III, dated January 10, 2019.
40. Email from Christine Brennan, dated January 10, 2019.
41. Email from Richard Cass, dated January 10, 2019.
42. Email from Thomas Geary, dated January 10, 2019.
43. Additional letter from Doak Conn, III, dated January 10, 2019.
44. Email from Cindy McGrew, dated January 10, 2019.
45. Email from Jerome Freibaum, dated January 10, 2019.
46. Email from Mike and Carol Richards, dated January 10, 2019.
47. Email from Travis and Becky Daniel, dated January 10, 2019.
48. Email from George Nilson, dated January 10, 2019.
49. Email from Valerie Panebianco, dated January 10, 2019.
50. Email from Stuart Levine, dated January 10, 2019.
51. Email from Lynn Brookhouser, dated January 10, 2019.
52. Email from Walt Teesdale, dated January 10, 2019.
53. Email from Mary Kempf, dated January 10, 2019.
54. Email from Joseph Kempf, dated January 11, 2019.

55. Email from Robert D. Ebel, dated January 11, 2019.
56. Email from Michael Stoff, dated January 11, 2019.
57. Email from Raquel Schuster, dated January 11, 2019.
58. Email from Larry Neviaser, dated January 11, 2019.
59. Email from Janine Rubitski, January 11, 2019.
60. Email from Ian Jones, dated January 11, 2019 .
61. Email from Doak Conn, dated January 11, 2019.
62. Email from Robert Ebel, dated January 11, 2019 .
63. Email from Doak Conn, dated January 11, 2019.
64. Email from Leslie Steen, dated January 11, 2019.
65. Email from Becky Daniel, dated January 11, 2019.
66. Email from Boe DeLashmutt, dated January 11, 2019.
67. Email from John Okeefe, dated January 11, 2019.
68. Letters of Support for Wylder Hotel submitted as one package, received January 11, 2019.
69. Email from Kate Jackson, dated January 12, 2019.
70. Email from Carol Zappe, dated January 12, 2019.
71. Email from testimony from Michael Flaherty, dated January 13, 2019.
72. Email from David Fawcett, dated January 12, 2019.
73. Email from Colin Eagan, dated January 13, 2019.
74. Email from Ruth Ann Lopez, dated January 14, 2019.
75. Email from Tony Lopez, dated January 14, 2019.
76. Email from Patricia McGlannan, dated January 14, 2019, Part I.

77. Email from Patricia McGlannan, dated January 14, 2019, Part II.
78. Email from Patricia McGlannan, dated January 14, 2019, Part III.
79. Email from Patricia McGlannan, dated January 14, 2019, Part IV.
80. Email from Dennis Britt, dated January 14, 2019.
81. Email from Danna Murden, dated January 14, 2019.

The following exhibits were offered and admitted into evidence as Applicant's Exhibits as indicated:

1. Photographs of the property before and after (seven pages).
2. Steve Moody Letter.

The following exhibits were offered and admitted into evidence by members of the public as Supporting Exhibits as indicated:

- 1, 1A. Map (Green and Orange labels) by Dr. Jay Shotel and #1A, written testimony before the Board on January 14, 2019.

The following exhibits were offered and admitted into evidence as Opposition Exhibits as indicated:

1. Letter from Elise Davis, dated August 28, 2018, addressed to Talbot County Council, in reference to proposed noise ordinance.
2. Letter from Leslie Steen, dated January 14, 2019.
3. Letter from Doak Conn, III, dated January 14, 2019.

Mr. Smith introduced Mr. Flannigan, as member of the entities that own the Property (21551 Chesapeake, LLC) and operate the hotel (Wylder Eastern Shore Management, LLC).

Mr. Smith said the special exception uses sought by Mr. Flannigan are typical to an establishment like Wylder. Because of the recent changes in the Talbot County Zoning

Ordinance, both requests, under Article IV, § 190.29.4 Restaurants, Bars and Nightclubs with Outdoor Events; and Article IV, § 190.33.11 Events Venue, Accessory require a noise compliance plan to be approved by the Planning Commission.<sup>2</sup> Mr. Smith said Mr. Flannigan received no citations nor encountered any negative incidents associated with 12 music events hosted by Wylder in 2018. Mr. Smith said the Board's analysis of the special exceptions criteria, in particular paragraph (4) regarding nuisance and "significant, adverse impacts on the surrounding area due to" *inter alia*, noise, have been simplified by the Talbot County Noise Ordinance, Chapter 92 of the Code, effective October 27, 2018 (the "Noise Ordinance"), which makes it unlawful within the County "to make, continue to make, permit, or cause to be made or continued a noise disturbance or a noise level in excess of 60 dBA during the daytime or 55 dBA during the nighttime, except as specifically stated herein." Mr. Smith said the Noise Ordinance defines what levels of sound constitute a nuisance, and provides structured enforcement protocols outlined in § 92-7 of the Code<sup>3</sup>.

Mr. Flannigan said a close friend introduced him 20 years ago to Tilghman, where he would visit for fishing and boating, and he became acquainted with Harrison's Chesapeake

---

<sup>2</sup> Article IV, § 190.29.4 and Article IV, § 190.33.1 both require that "All applicants in the Village Zoning Districts requesting outdoor amplified music shall include a noise compliance plan that includes a means for continuous electronic monitoring of sound levels from one hour prior to, until one hour after, the approved outdoor music time restriction, along with all other materials required by the application form and checklist published by the Planning Office."

<sup>3</sup> §§92-7 A.-C. proscribe the role and protocols of Primary and Secondary Noise Control Officers, who "may cooperate with enforcement personnel of other agencies or municipalities in investigating compliance with one another's ordinances regarding noise compliance." §92-7 D.(1) lists progressive fines for offenses within a 24-month period. §92-7 D.(2) provides that §92-7 D.(2) provides that a copy of the Notice of Violation and Penalty Assessment shall be sent "to the approving authority(ies), as applicable (e.g., Short-Term Rental Review Board, Liquor Board, Board of Appeals, Planning Commission or Planning Director). The notice may include a recommendation to suspend or revoke a license or approval in accordance with the applicable regulations for such action or may include a requirement or recommendation for noise mitigation." §92-7 D.(3) provides that "In addition to, and not in lieu of, the penalties prescribed in this chapter, the County Attorney may apply to the Circuit Court for an injunction or declaratory judgment against the continuing violation of any of the provisions of this chapter and may seek any other remedy of relief authorized by law."

House (“Harrison’s”), a hotel, restaurant and marina that preceded Wylder on the Property.

After obtaining a degree in hospitality management from Penn State University, Mr. Flannigan said, he began looking for investment property. Tilghman seemed like an economically depressed location that was ripe for a turnaround, he said. Mr. Flannigan said a hotel had existed in some form on the Property for approximately 100 years, that such operations were once the “anchor” of Tilghman Island, and that he wanted to “restore this gem.”

Mr. Flannigan said he invested several million dollars into a complete restoration and renovation of the Property, and that he has created 55 jobs with the prospect of adding more. He said positive reviews of Wylder has been featured in publications including *Conde Nast*, *The Washington Times* and the *Washingtonian*, and that Wylder has been nominated for economic development awards by Talbot County as well as the State of Maryland as an example of investment in enterprise zones. Mr. Flannigan highlighted Wylder’s donations to local organizations including the Tilghman Watermen’s Museum, the Watermen’s Association, Tilghman Elementary, Talbot Goes Purple and the Tilghman Volunteer Fire Department. Wylder, he said, is a proven entity with a plan, approved by the Planning Commission, that is based on the Code. Mr. Flannigan said he and his staff are committed to ensuring compliance with the Noise Ordinance and protecting the quality of life of Wylder’s neighbors and Tilghman. He said it has been proven across the Eastern Seaboard that commercial properties and residential homeowners can coexist in the best interest of both, and that the Noise Ordinance ensures that.

Mr. Flannigan said he was aware of a permanent injunction entered by the Circuit Court for Talbot County against a previous owner of the Property, Levin Harrison III, on September 22, 1988 (the “Injunction”), which prohibited the playing of any live, amplified or recorded

music or entertainment outdoors. The Injunction, then against successor owner 21551 Chesapeake, LLC, was dissolved on August 3, 2018, in Case No. 20-C-87-000602, after which Wylder was granted 12 special use permits and hosted 12 events featuring live music in 2018. For each event, Mr. Flannigan said, Wylder staff performed sound checks and maintained 60 dBA or less at the property line. Wylder's events, he said, included free concerts that were enjoyed by members of the Tilghman Island community, and a wedding; Mr. Flannigan said Wylder received no complaints about any of the events. The recent changes to §190 of the Code reduce the number of permitted events from 12 to six<sup>4</sup>. Mr. Wilder said this puts Wylder at a disadvantage to competitors like the Inn at Perry Cabin, Black Walnut Point Inn and the Tidewater Inn, who he said have no limit to the number of events featuring music they can host. Mr. Flannigan mentioned Doc's Sunset Grille in Oxford, which is allowed a via the Oxford Town Code a 70 dBA limit during daytime and 65 dBA at night. Compared to similar venue locales, Mr. Flannigan said, the recent code changes put Tilghman at a disadvantage.

Mr. Flannigan said that, while he initially requested 50 events, he amended his request to 42 events, including 32 "prime wedding" weekends. He said the Planning Commission agreed his requests are consistent with the Talbot County Comprehensive Plan, and that the economic value of a thriving Wylder Hotel will benefit home values, businesses, nearby restaurants and the Tilghman Elementary School. Prior to his renovations, Mr. Flannigan said, the Property was the site of abandoned cars and boats, an overgrowth of grasses and weeds, and criminal activity. He said the new owners of the Tilghman Island Inn, where he said similar conditions existed recently, are encouraged by the progress at Wylder. Mr. Flannigan said he has experienced

---

<sup>4</sup> See §190-34.2 E. 3.

guests who, after visiting Wylder, have purchased or inquired about purchasing homes on Tilghman.

Mr. Flannigan said that, if approved, his requests will not constitute a nuisance to surrounding properties. He said Wylder has “proven 12 times that we can handle live music” and comply with the Noise Ordinance. In response to a question from the Board, Mr. Flannigan said the revised Noise Compliance Plan approved by the Planning Commission is a “tougher” plan that the guidelines under which the previous 12 events were run. Wylder hired a DJ and sound professional, Steve Moody, as a consultant in connection with Wylder’s Noise Compliance Plan and, Mr. Flannigan said, adding that Wylder can “easily” limit noise to 60 dBA or less at the property line. Mr. Flannigan said the additional events, if approved, will not negatively impact traffic. He called Wylder a “destination,” stating that visitors typically arrive for the weekend and remain in Tilghman during their stay.

In response to a question from the Board, Mr. Smith said the initial planning that went into drafting the Noise Compliance Plan involved Mr. Moody setting up DJ equipment in the area on the Property where events would be held, and Wylder employees utilized decibel readers at various locations, including immediately adjacent to the DJ equipment. The decibel readers, he said, pick up all environmental noise including crowd noise, along with the music.

Mr. Flannigan said oversight of noise levels and Wylder’s compliance with the Noise Compliance Plan will be overseen by a general manager.<sup>5</sup> In addition to decibel readers located at property lines pursuant to the Noise Compliance Plan, Mr. Flannigan said the general manager will also have a decibel reader. In response to another question from the Board, Mr. Flannigan

---

<sup>5</sup> The Noise Compliance Plan dated January 7, 2019 states that “Sound readings will be recorded one hour before event, one hour after event, and every ½ hour during the event by a Type 2 Electronic monitoring device placed on a tripod at the property line. Continuous electronic monitoring of sound levels will occur during this time period.”

said printable logs will be available for each event, pursuant to the Noise Compliance Plan<sup>6</sup>, as well as handwritten logs the general manager will update throughout each event.

Responding to a question from the Board about how live music and accessory events will boost the economy in a “quiet community,” Mr. Flannigan used weddings as an example of the economic ripple effect he anticipates. Each wedding, he said, brings in \$10,000-\$30,000 in addition local expenditures: stylists, DJs, caterers and other ancillary services. A typical wedding, he said, will require Wylder to hire additional temporary staff, and Mr. Flannigan said he purchases seafood both for Wylder’s normal operations and in additional quantities for accessory events, from local vendors. Visitors to Tilghman, he said, visit local stores and restaurants, and often “fall in love” with the area.

Mr. Smith noted for the Board that the scope of the application was modified based on Planning Commission recommendations. The 42 maximum events requested is down from the original request for 50. Outdoor events at Wylder’s restaurant will be possible Wednesdays through Sundays between April 15 and November 15, from 10 a.m. to 10 p.m., with the exception that no music will be played before noon on Sundays. No event will last longer than five hours, and no more than one event will occur in a day.

Mr. Smith elicited responses from the Applicant’s to the special exception requirements:

1. Mr. Smith said the Planning Commission made a favorable recommendation to the Board, indicating consistency with the Talbot County Comprehensive Plan. He said the Planning and Zoning Staff Report (the “Staff Report”) references both the Comprehensive Plan and the Tilghman Village Master Plan. Mr. Smith referenced the Section 7.10 of the Comprehensive Plan, under Economic Policies, which states

---

<sup>6</sup> The Noise Compliance Plan contains sample Amplified Music Readings logs from prior events.

that “The County should support and encourage the appropriate enhancement, redevelopment, and reinvestment in existing tourism related nonconforming structures and uses so that they may contribute positively to the County’s economic base.” He said Applicant’s plan to have special events will enhance the Property and position Mr. Flannigan to contribute positively to the County’s economic base.

2. Mr. Smith said the use will comply with the standards of the VM district, and that the Planning and Zoning Staff Report states the use will meet the bulk and design standards of the VM district. Mr. Smith said Mr. Flannigan will plant a landscape buffer in compliance with the zoning ordinance, where a waiver was not approved by the Planning Commission.
3. Mr. Flannigan said the requested use does not involve permanent improvements, but that tents will be put up on Friday and taken down Sunday or Monday, and that the use is compatible with surrounding land uses, with heights no taller than surrounding structures. Mr. Flannigan said he has made a “very significant” investment in the Property, evidenced by photos submitted as Applicant’s Exhibit 1.
4. Mr. Flannigan said he understood the Noise Ordinance and its enforcement mechanisms, that he was confident he could comply with the Noise Ordinance, and that the Noise Compliance Plan demonstrates his intent to comply. Chairman Jones said the scale of the Applicant’s request, which can affect neighboring properties even within the legal noise limit, is left to the Board. Chairman Jones said the Property is large, but the event venue is only 50 feet from a property line, and asked Mr. Smith and Mr. Flannigan to elaborate on the balance between commercial and residential uses. Mr. Smith said the special exception standard is “no significant

adverse impact” and that the County Council has set the standard of 60 dBA at the property line, which is a standard delineates nuisance and does not differentiate across property types. As to the number of events, Mr. Smith said Mr. Flannigan made market-based decisions as to what would make his business viable. Last year, he said, Wylder hosted one wedding; Mr. Flannigan would love to host 42, although he is uncertain that will happen. Mr. Flannigan said Wylder’s events in 2018 averaged 120 attendees. He said that Wylder already employs mitigating techniques for noise, including setting speakers at angles designed to lessen impact on surrounding properties, a planted tree line and frequent decibel readings. “We want happy neighbors,” he said. “We have 50 hotel rooms with families even closer” than neighboring properties, Mr. Flannigan said, adding that Wylder’s goal is to also minimize disturbance to hotel guests. Mr. Flannigan said that not many other businesses than a hotel could make use of the Property, which had attracted illegal activity when it was abandoned, and would revert back to that condition without a thriving business in operation. In response to a question from the Board, Mr. Flannigan said a tent at the restaurant will only utilized for inclement weather. He said no amplified music would occur from both venues at the same time, although “low, ambient music” may be available in common areas for other guests not attending events. In response to a question about waste management, Mr. Flannigan said Wylder’s several restrooms have accommodated event needs in the past, but that in the rare event portable toilets were required, Wylder could easily rent them.

5. Mr. Flannigan said the use will have no adverse impact on public services. He said a resort has existed on the Property for several decades, that it is served by private well

and septic systems and not public facilities, that it will have no adverse impact on schools, and that it is already served by the Tilghman Island Fire Department and the Talbot County Sheriff's Department, to whom Wylder has made no calls for assistance. Mr. Flannigan said he anticipated no increase in calls for assistance from public services as a result of adding the requested uses. He said all traffic to and from Wylder will utilize Tilghman Island Road, Route 33, a state highway, and that the State Highway Administration and Talbot County engineers reviewed the application and indicated no concerns.

6. Mr. Flannigan said the use will not have a significant adverse effect upon marine, pedestrian or vehicular traffic. He said an existing means of ingress and egress for marine vehicles, pedestrians and motor vehicles was already in place and intended to remain, that such means of ingress and egress are adequate to accommodate anticipated traffic for events.
7. Mr. Flannigan said the use will not produce traffic volumes that would exceed the capacity of public or private roads in the area or elsewhere in the County, based on the road classifications established in Chapter 134, the Talbot County Roads and Bridges Ordinance, and other applicable standards for road capacity. Mr. Smith said the Staff Report indicated Tilghman Island Road had sufficient capacity to accommodate anticipated traffic volume for events, and noted the lack of comments or concerns from the State Highway Administration.
8. Mr. Flannigan said any vehicle access to proposed off-street parking areas and drive-in facilities will be designed to minimize conflicts between vehicular, bicycle and pedestrian traffic and to minimize impacts on adjacent properties and on public or

private roads. He said no changes are proposed to the ingress and egress already established, that parking for temporary events that have already occurred at Wylder was accommodated on-site in the manner proposed in his site plan, without incident. All vehicles enter and exit the Property via Tilghman Island Road, he said.

9. Mr. Flannigan said the use will not significantly adversely affect wildlife with respect to the site's vegetation, water resources, or its resources for supplying food, water, cover, habitat, nesting areas, or other needs of wildlife. He said no trees or other habitats were removed from the Property, evidenced by Applicant's Exhibit 1. The event area is a turf lawn that will be maintained, he said. Mr. Flannigan said the temporary facility will be located over existing lot coverage and/or outside the Critical Area buffer as required by the Critical Area Commission.

10. Mr. Flannigan said there are no adjacent agricultural uses.

In response to a question from the Board about the effects of heavy rain on the Property's parking area, Mr. Flannigan said "Tilghman gets wet and dries out quick." He said he has no cars get stuck on the Property due to wet ground. Asked if he needed to re-seed or sod the parking area, Mr. Flannigan said the area is all wiregrass that keeps growing back.

A Board member asked Mr. Flannigan what various decibel levels sounded like within a 1,000-foot radius. Mr. Flannigan said his understanding was that Maryland set a 65 dBA level at property lines throughout the state to allow people to have sufficient quiet enjoyment of their properties with no impact on quality of life. Talbot County set the standard at 60 dBA. Mr. Flannigan said his experience running events at Wylder is that the music is "very background," and that when he has taken videos of music, looking at a decibel reader, gusts of wind would sometimes show 80 dBA on the device. He said birds chirping next door have registered 80

dBa, and boats in the harbor next door revving their engines have registered 85 dBA. “I find normal life on Tilghman Island to be well above 80 all the time,” he said.

Mr. Smith said the Code does not require an Applicant to employ an engineer or sound expert, but that it requires sound not to exceed the levels set by the Noise Ordinance, and Mr. Flannigan’s commitment to the placement of decibel readers can ensure compliance.

In response to a question from Chairman Jones, Mr. Duell said Code enforcement officers can access stationary decibel readers even if such officers are not present on the property, and can enforce Noise Ordinance violations after the fact.

Mr. Smith demonstrated the location of decibel readers on the Noise Compliance Plan.

The Board invited testimony from any members of the public present who wished to testify.

Christina Higgins, 21485 Wharf Road, Tilghman, testified against the Application. Ms. Higgins said granting two special exceptions could create a nuisance and could threaten economic vitality on Tilghman. She said the difference between 55 dBA to 60 dBA is a “three times increase,” and that Wylder seeks a nearly tenfold increase in events from what is permitted. She said property owners like her have a big economic impact on Tilghman, citing economic sectors like home improvements and services. Ms. Higgins said she “understand[s] how to build businesses” and that a successful business needs a steady stream of activity, not just activity on weekends. She said meetings, conferences and eco-tourism are better activities for a business like Wylder, and that what Wylder seeks “is not a local approach” as needs for such events could be outsourced. The Property and surrounding community, Ms. Higgins said, is Village Mixed, adding that, in the Tilghman Village Master Plan, residents cited “community, quiet, working waterfront and the environment” as facets they love about Tilghman. She said

Applicant's requests threaten to turn Tilghman into a "party town." Ms. Higgins suggested an incremental increase in permitted events for Wylder over a three-year period.

Dr. Jay Shotel, 21451 Island Club Road, Tilghman, testified in support of the Application. Dr. Shotel introduced an overhead map into evidence showing properties on Tilghman marked with either green or orange labels. Green labels indicated the address of a resident who submitted letters in favor of the Application; orange labels indicated those opposed to the Application. Dr. Shotel said his exhibit demonstrated overwhelming support, especially in the area immediately surrounding the Property, for the Application.

Dr. Shotel said his property is separated from the Property by a cemetery, and that he has never been disturbed by noise from Wylder. He said he attended three events at Wylder in 2018, but that he could not hear music from his home during events he did not attend. Dr. Shotel said this is in contrast to events hosted by Wylder's predecessors, featuring "wet t-shirts, cigarette boats" and loud music he could hear from his home. He said Mr. Flannigan has made a significant investment in the Property and said Wylder has attracted tourists from across the Mid-Atlantic. Dr. Shotel said 355 letters were submitted to the Planning Commission regarding the Noise Ordinance, and that the County adopted standards it believed to be reasonable. He said he knew of no complaints about any of Wylder's 12 events in 2018. "Why punish someone who has proven he can abide by the law," he said. Dr. Shotel said a thriving Wylder is good not just for Tilghman but for all of Talbot County, that Wylder is the largest employer on Tilghman, and that employees may seek residence on the island. He said he has witnessed an uptick in real estate investment and in long-term rentals, including a neighboring home he said had been on the market for a long time that recently sold. Dr. Shotel said he is the president of the Tilghman

Watermen's Museum and has seen an increase in visitors to the museum. Mr. Flannigan, Dr. Shotel said, has made generous contributions to events at Tilghman Elementary School.

Mike Whittington, 21549 Chicken Point Road, Tilghman, testified in support of the Application. Mr. Whittington is employed by Wylder. Mr. Whittington said he has lived and worked in Tilghman for most of his life, including many years at the Tilghman Island Inn, and formerly owned a Tilghman restaurant at the current location of Marker Five Restaurant. Mr. Whittington said he believes Mr. Flannigan will contribute to positive economic development on Tilghman and in the surrounding areas. The heyday of the seafood industry is in the past, Mr. Whittington said, and tourism is an important source of employment opportunities, from management positions to service and kitchen staff to "providing local youth with that first summer job, which can point life in the right direction." Tilghman, he said, must be allowed a level playing field with surrounding areas in Talbot County. Drawing visitors to Wylder, he said, increases the customer base for local stores, eateries and local seafood suppliers. Long-term employees of a successful enterprise, Mr. Whittington said, may move to and raise families on Tilghman, populating Tilghman Elementary and leading to an increase in real property values. Mr. Whittington said that when Wylder has hosted music events underneath tents, he could "barely hear" the music when he walked around to the front of the Property to get to his car, and that by the time he reached the end of Wylder's driveway, he could not hear any music at all. This is contrast to years past, Mr. Whittington said, when he could hear music emanating from Harrison's from his home on Chicken Point Road.

Deborah Becker, 309 Lauren Street, Easton, testified in support of the Application. Ms. Becker said she has been a Talbot County homeowner for 29 years and resided in Talbot County for 41 years. She said she has been trying to purchase a home on Tilghman but has found none

available. Ms. Becker said she worked for decades in Annapolis and Kent Island, because wages in Talbot County were too low. She was employed in 2017 for a management company contracted by the bank foreclosing on the Property, she said, and Mr. Flannigan hired her immediately upon purchasing the Property as an accounting and administrative supervisor. Ms. Becker described the work Mr. Flannigan put into removing debris from and restoring the Property, which led, she said, to an increase in the State Department of Assessments and Taxation appraised value of the property in 2018. This increase, she said, is further evidence that surrounding properties will not be harmed by the improvements made at Wylder. Ms. Becker said Wylder strives to purchase from local produce and seafood suppliers, and pays wages considerably higher than similar businesses in Talbot County. Among Wylder's employees, Ms. Becker said, are Tilghman residents including those with children who are or will attend Tilghman Elementary. Young families with young children, she said, deserve to work for an employer paying good wages in a location where they can enjoy a good quality of life. "You shouldn't have to turn 62 and retire to enjoy a good quality of life," she said.

Kristen Seymour, 8174 New Bridge Road, Denton, testified in support of the Application. Ms. Seymour is the general manager and director of sales for Wylder as well as Wylder's wedding and events coordinator. Ms. Seymour said Wylder attracts guests of all ages from across the United States and abroad. The hotel, she said, does not foster a "party" atmosphere. "We don't frankly attract many people who want to be loud," she said. "They want to come to the Shore to relax, watch ospreys, eagles and watermen." Ms. Seymour said the argument that money spent on weddings at Wylder "goes elsewhere" is untrue. As an Eastern Shore native, she said, she recommends local vendors for brides, including florists in the Bay Hundred area, a St. Michaels photographer, an Easton DJ and a Tilghman wedding cake baker. Tilghman fishing

captains, Ms. Seymour said, are frequently hired to take wedding party members for scenic boat rides. When wedding parties request oysters, she said – frequently several hundred for a wedding – these oysters come from Miles River oyster divers and Phillips Wharf on Tilghman, and crab meat is also sourced locally. Ms. Seymour said the Chesapeake Bay Maritime Museum recently earned an award from the Maryland Tourism Coalition for a campaign that resulted in booked weddings on 100 percent of its available dates for 2018. “They were stuck on a pedestal and told ‘good job’ because they booked all the dates they wanted,” she said. “All their weddings are in a tent, outside, on the water where everyone eating at those restaurants, and at Harbour Inn, can hear their music.”

Ms. Seymour said some opposing the Application have said Wylder should be more like Wye River Conference Center in Queenstown and focus on corporate events. “I promise I’m focusing so much of my time every single week on corporate retreats,” she said. “We want that business, too; we want to bring people in midweek as well as weddings on weekends.” Ms. Seymour said the Wye River Conference Center also hosts several weddings each year, outside and under tents, and that Wylder’s goal is to be able to do what its county and regional competitors, including Wye River Conference Center, The Inn at Perry Cabin and Harbour Inn, do. “We don’t want to be left out and told no, simply because of where our business is,” she said, adding that Wylder will comply with all regulations. “We don’t want to anger our neighbors,” Ms. Seymour said. “We love the people of Tilghman.”

Ron Cicero, P.O. Box 231, Tilghman, testified in support of the Application. Mr. Cicero, known locally as “Captain Ron,” owns the Tilghman Island Marina located at 6140 Mariners Court, Tilghman. Prior to purchasing the marina in 1999, he said, he visited Tilghman as a tourist since the early 1980s. The marina is a business that “potentially could be an issue with

neighboring housing that is a beer can's throw from my business," he said, and his home is within that same community. As a Tilghman homeowner, Mr. Cicero said he doesn't want things "out of control" on Tilghman, that he wants the uniqueness and quality of life he's experienced on Tilghman since his earliest visits to be preserved. On the other hand, he said, business owners need to be able to draw enough annual revenue to support themselves. Mr. Cicero said he watched Tilghman grow from a "quaint waterman's town" to adding a plethora of new businesses and revenue from around 1999 to just prior to the financial crisis of 2008, which he said hit Tilghman hard. Now, residents are hoping the local economy is turning around again, Mr. Cicero said, and Tilghman has the potential to "be vibrant and still maintain a residential community."

Prior to Mr. Flannigan's purchase, Mr. Cicero said, the Property was dilapidated. Mr. Flannigan, he said, has "made commitments and has lived up to everything he promised." He said he has observed Wylder closely this past year, and has questioned many of Wylder's customers about their experiences. "He runs a quality, classy place, he's a good business owner and the type of person Tilghman Island needs to build businesses," Mr. Cicero said of Mr. Flannigan. Mr. Cicero lives near the Tilghman Island Inn, another previously run-down property being built up by new ownership that will also likely seek a special exception request for live music events similar to the Application, he said. Mr. Cicero said what Mr. Flannigan is requesting is acceptable to him as a residential homeowner. "If you have a property that has the potential, and you can't expand it to its fullest capacity for revenues," he said, "you might as well pack up and go away."

John Mulaney, 59522 Tilghman Island Road, Tilghman, testified in support of the Application. Mr. Mulaney is the owner of the Tilghman Country Store and a realtor with

Chesapeake Bay Real Estate Plus. He said he attended the first wedding held at Wylder and several other music events, and that each “went well, and I look forward to more.” Mr. Mulaney discussed a letter from another local realtor, Rondy Alstrom, stating that her business had suffered as a result of music events at Wylder. Mr. Mulaney said Ms. Alstrom’s office only did six settlements in 2018, and that he personally sold 13 houses on Tilghman and in Sherwood. His office, as a whole, sold 85 houses and lots on Tilghman in the past two years, and music has not been a detriment to sales, he said. Many of his customers, Mr. Mulaney said, are excited to be part of a revitalization on Tilghman, and he has seen a substantial rebound in home sales and prices. “Rest assured, real estate is at its best in over 10 years,” he said. “To me, this is going to be a plus to the community.”

Carol Zappy, 5410 Windward Dr., Tilghman, testified in support of the Application. Ms. Zappy said she would never have moved to Tilghman in 2000 if she thought it would be limited to a “retirement community” and that she and her husband “love children and a vibrant community.” Ms. Zappy said she has friends in favor of the Application and opposed to it, and respects all opinions, but that she believes in what Mr. Flannigan is doing. She said at one of Wylder’s first events, she and her husband got out of the car in the Wylder parking lot and could not hear music and thought they had arrived on the wrong night. When they walked around the Property, they could finally hear the music; however, when sitting on the crab deck, they found the band difficult to hear because of conversation. “We moved with friends closer ... and really enjoyed eating a meal, having a glass of wine and listening to the band and enjoying friends’ company,” she said. Ms. Zappy cited the near-closing of Tilghman Elementary and said she doesn’t want to see Tilghman become the “stepchild” of Talbot County. With a successful Wylder and other hotels, she said, people will fall in love with Tilghman and potentially buy

houses on the island. She described Mr. Flannigan as responsible business owner who wants Wylder to “be friends with [its] neighbors,” by following the rules.

Pat Yeager, 5405 Anchor Road, Tilghman, testified in support of the Application. Ms. Yeager said she lives approximate three-quarters of a mile from the Property. She said some of the main reasons she moved to Tilghman were “peace and quiet,” and the strong sense of community present on the island. Mr. Flannigan and his staff, Ms. Yeager said, embrace the community aspect of Tilghman, noting numerous charitable work and donations made by Mr. Flannigan along with his support of local watermen, businesses and suppliers. The current constraint on the number of events Wylder can host, she said, make it “nearly impossible from a business perspective for the hotel to survive.” Further constraints, Ms. Yeager said, are not being proposed because Wylder has done anything wrong or ignored any rules or regulations, but rather, because of “what-ifs” and because residents remember actions of the Property’s prior owners. “I understand people don’t want loud music blaring at all hours of day and night. I don’t want that either,” she said. Ms. Yeager cited the recently enacted Noise Ordinance and its provisions for enforcement and said there was no evidence Wylder has permitted noise levels in excess of the limits of the Noise Ordinance. She said she has never heard any noise from Wylder at her home, nor as she bikes and walks through Tilghman, including “right in front of Wylder.” Ms. Yeager said she has attended multiple events at Wylder. Denying the Application, she said, would have a negative financial impact on Tilghman and make it “way more quiet than we want, as businesses will fail ... no one wants to move to a depressed area where there are no businesses to support the community.”

Elise Davis, 5489 Rude Avenue, Tilghman, testified against the Application. Ms. Davis said she has lived at her current home, approximately eight-tenths of a mile from Wylder, for

over 20 years, and that her parents lived there 27 years before her. She said the second most important reason people move to Tilghman is a quiet environment, and that Talbot County promotes tourism based on heritage and nature. In the 1980s and 1990s, Ms. Davis said, she had to listen to “crappy noise from Harrison’s” from her home, and that on September 28, 2018, she could hear music from Wylder while sitting on the end of her dock. “I’m appalled that I will have to listen to it 30 times year,” she said. Ms. Davis referenced a letter she wrote in opposition to the Application regarding economic development on Tilghman, stating *inter alia* that water-based development is “gone and it will never come back.” Ms. Davis said an “alcohol-fueled event center” and noise that crosses one property onto another “does not make for economic development.” She questioned how Tilghman will handle “250 people for a wedding 30 times a year” and said she doubts Talbot County will properly respond to noise complaints.

Anita Fawcett, 21613 Chicken Point Road, Tilghman, testified in support of the Application. Ms. Fawcett said she lives approximately one quarter of a mile by water and a half-mile walk from Wylder. She said she cannot hear any noise from Wylder during events, some of which she has attended. Ms. Fawcett said the property was completely dilapidated before Mr. Flannigan purchased it, and that she has only seen improvement since. Ms. Fawcett said that in recent years she hosted a wedding for her daughter at her home, employing meters to gauge noise levels at her own property lines, and received no complaints from neighbors. The wedding she hosted, she said, brought substantial business to Tilghman, and she supports Mr. Flannigan’s efforts to do the same.

Russell Wright, 5883 Tilghman Island Road, Tilghman, testified in support of the Application. Mr. Wright said his home is one building lot separated from Wylder, making him well situated to assess music or noise emanating from the Property. Mr. Wright said he and his

wife married on Tilghman six years ago and made a conscious effort to include local businesses and suppliers as much as possible for an event that included 100 guests staying over three days, many from other parts of the country who had never been to Tilghman or Maryland. He said his own wedding put over \$30,000 into Tilghman businesses. Mr. Flannigan, he said, has invested a substantial sum in making Wylder a successful business and, and that he has done due diligence and followed all guidelines, adding that Mr. Flannigan has earned the opportunity to succeed.

Michael Flaherty, 21388 Avalon Court, Tilghman, testified against the Application. Mr. Flaherty said he lives approximately 1,400 feet from Wylder. He said he moved to Tilghman seven years ago after 25 or more years of vacationing there. Mr. Flaherty said he chose Tilghman because of “water, culture, beauty, [and] distance from urban life” he wanted to leave behind. He said his 27-year Navy career included using sonar to locate submarines, and that he his also a clinical psychologist who has learned that sound affects people, behavior and the environment. Mr. Flaherty said noise is an emotional argument on Tilghman, and that few have considered the long-term consequences of the Application. He said everyone wants Wylder and other existing businesses on Tilghman to succeed. However, the statement that the “vast majority on Tilghman support outdoor amplified music as presented in the petition” is false, he said, because people have been told that this equates to jobs and economic progress. Mr. Flaherty said Tilghman has a unique culture and environment and is a longtime home to watermen, families and those seeking urban escape. Building a future on “parties and weddings,” he said, will not revitalize Tilghman, because it doesn’t directly bring new residents to Tilghman and ignores its unique, water-based culture and character. “Would you purchase a house near 50 outside events of 60 decibels?” he asked. Mr. Flaherty also questioned enforceability of the Noise Ordinance, stating that Tilghman has no organized government and

representation, and no dedicated police. He recommended approval of 20 events, to see if they can be managed in compliance with the Noise Ordinance, and then increasing the number if the Applicant has “earned” and seeks more.

Marlese Green, 21445 Coopertown Road, Tilghman, testified in support of the Application. Ms. Green said she and her husband have typically spent 50 nights a year on Tilghman. She said she loves music and has fond memories of live music in local venues. She and her husband chose their home to be able to walk to marinas, restaurants and the village, she said. Ms. Green said she and her husband recently purchased the Tilghman Island Inn after it spent two years shuttered, and are in the process of restoring it. Newer businesses like Wylder, she said, are investing in the Tilghman community. Ms. Green said events and live music are a critical component of Wylder’s business model in a challenging industry with a seasonal market. Another shuttered business would be a setback Tilghman cannot afford, she said, adding that Mr. Flannigan’s request seems reasonable, in accordance with the needs of his business and supportive of the community.

Tom Green, 21445 Coopertown Road, Tilghman, Ms. Green’s husband, testified in support of the Application. Mr. Green said he had two perspectives to share: one as a 12-year Tilghman resident, the other as a business owner. As a resident, he said, he has learned that Tilghman Islanders are fiercely independent, a “live and let live” sort of community, which requires a certain tolerance for others. Although Tilghman is a beautiful and often serene place, Mr. Green said, “don’t think Tilghman is not a noisy place.” He said sounds such as diesel trucks at 4 a.m. headed to workboats, followed by boat engines starting and revving, the drawbridge bell and dogs barking are among common noises heard on Tilghman – all of which are “woven into the fabric of the community.” Mr. Green said he does not know Mr. Flannigan

but has watched him build Wylder and make good decisions in the process of restoring the Property. Mr. Green said he remembers events under prior ownership of the Property – “cigarette boats, wet t-shirt contests” – and that Wylder is a completely different type of business, focused on cleanliness, good decisions, well-trained staff and quality food. He said Wylder is a positive addition to the community, and the events requested in the Application are critical to Wylder’s viability.

Matt Albers, 7112 Wheeler Park Circle, Easton, testified in support of the Application. Mr. Albers said he was speaking on behalf of Phillips Wharf Environmental Center (“Phillips Wharf”), 6129 Tilghman Island Road, Tilghman, describing it as an education- and conservation-oriented nonprofit located on Knapps Narrows. Two years ago, he said, Phillips Wharf acquired a five-acre oyster farm just off Black Walnut Point on Tilghman, an asset that acts as a classroom for aquaculture programs and provides revenue to Phillips Wharf from oyster sales that allows the entity to rely less on donations. Wylder has purchased Phillips Wharf oysters since Mr. Flannigan opened the business, Mr. Albers said. During the best weeks, “weeks they have events,” Mr. Albers said, Wylder routinely buys \$400 in oysters from Phillips Wharf. Similar expenditures are made over the course of 42 annual events, he said, would bring in \$16,000 annually for Phillips Wharf, a sum that could fund maintenance of the center’s Fishmobile mobile classroom for one year; provide annual salaries for two AmeriCorps interns; allow the center to provide more educational opportunities to Talbot County youth; pay all loan interest for the oyster farm for 18 months; or “keep the lights on” at Phillips Wharf for one year.

Lynn Brookhouser, 21756 Camper Circle, Tilghman, testified against the Application. Mr. Brookhouser said she wants Wylder and other businesses on Tilghman to succeed. He said if outdoor music will help that success, he supports it, provided it is done on a scale and

frequency that is consistent with the character of a quiet rural village, allowing neighbors to continue the peaceful enjoyment of their property. He said he does not support the Application as submitted, that it lacks reasonable constraints and embraces “turning Tilghman into a party and event venue” that will dramatically alter the community. Mr. Brookhouser said the Application contemplates outdoor restaurant music 10-12 hours a day, 150 days per year, and 42 events per year featuring five hours of music in a 6,000-square-foot tent with up to 250 people. If noise from the events and restaurant is in compliance with the Noise Ordinance at the property line, he said, nearby residents may realize a three- or four-fold increase in sound level, as every 10 decibels is a doubling of sound level. If the sound at the property line is at 60 dBA, Mr. Brookhouser said, neighbors are likely to experience 55 dBA on their property. Mr. Brookhouser said the frequency, duration and scope of requested music events is unreasonable for a quiet, residential community like Tilghman. He also said he does not support the Application as submitted because, he said, the Noise Compliance Plan submitted with the outdoor restaurant application does not measure sound at the nearest property line as specified in the Noise Ordinance, which must be addressed to be in compliance with the Code. Permissions granted Wylder, he said, will be used by other Tilghman businesses as a model for their outdoor music applications. The special exceptions requests, as submitted, Mr. Brookhouser said, are inconsistent with the Talbot County Comprehensive Plan and Tilghman Village Master Plan, constitute a nuisance to residential property owners and will damage the value of residential properties.

Jill Cordery, 21752 Camper Circle, Tilghman, testified against the Application. Ms. Cordery said she agreed with what Mr. Brookhouser said, and that the requests in the Application contain few effective restrictions. Although she said she heard a lot about how

benign the past events at Wylder were, Ms. Cordery said she worries about the “what-ifs” of a business plan that requires 42 weddings a year. If Wylder cannot book 42 events a year, she said, the danger is that Mr. Flannigan or a subsequent owner will use the permissions for so many events to try to increase revenue by holding the type of raucous events people agreed were objectionable when they were held by the prior owner of the Property. Ms. Cordery said the restaurant that preceded Marker Five on Knapps Narrows attempted to solve financial difficulties by hosting rock concerts with amplified music, as well as karaoke, that carried down the narrows to her home and caused disturbance. Only because of restrictions that existed at the that time, she said, were she and neighbors “able to reclaim our lives and home.”

George Nilson, 21477 Gibsontown Road, Tilghman, testified in support of the Application. Mr. Nilson said his home is about 400 yards from Wylder, separated only by Dogwood Harbor with no shielding trees or buildings between. “Sound has a clear shot at our backyard from Wylder,” he said. Mr. Nilson echoed a prior statement that “all is not peaceful and tranquil on Tilghman,” citing the sound of about 35 pickups at 4:30 a.m. arriving at Dogwood Harbor, driven by watermen who then warm up their boats in a routine that lasts until around 6:30 a.m. During hunting season, he said, firearms can be heard in the morning. Mr. Nilson said when he moved to his current location, he was concerned about the vacant Harrison’s property, and knew the former owners had a history of “not being a great neighbor” despite hosting some “great parties.” Mr. Nilson said he and other Tilghman residents organized in an attempt to find a responsible buyer of the Property, and even considered pooling capital themselves. He said he was happy when Mr. Flannigan purchased the Property and met him shortly thereafter, discussing Mr. Flannigan’s plans for Wylder and “what kind of citizen he hoped the hotel would become.” Mr. Nilson said Mr. Flannigan delivered on every promise he

made, that Wylder is a good “corporate citizen” that has brought economic well-being to many and has had a positive effect on other businesses. He said he enjoyed the evenings from his backyard the entire 2018 season and “never heard a peep” from Wylder, even though he is one of the closest, potentially impacted properties. He urged the Board not to punish Mr. Flannigan for “what people on Camper Circle remember from seven or eight years ago.”

Robert Ebel, 21748 Camper Circle, testified against the Application. Mr. Ebel said he spent a large portion of his career involved with local economic development and the visitors sector, in Hawaii and with other state and local governments in Minnesota, Nevada, Washington, D.C. and Connecticut, and he referenced written testimony he submitted to the Board. Mr. Ebel said the hospitality sector has merits and “can be a good neighbor.” By bringing in outside money, it is an “export industry,” he said, with both private benefits and costs, and external benefits and costs. An example of an external benefit, he said, is the reduction of crime resulting from the elegant renovation of a vacant property. External costs include noise, he said. Mr. Ebel said the multiplier effect of additional spending by hotel visitors is low and that a recent national study found that tourism impacts on local economic development tends to be exaggerated. He said significant “leakage” occurs in the food and beverage and hospitality industries – the geographic dispersion of tourist/customer dollars spent locally. He said the leakage percentage in the food and beverage industry is 91 percent, and 98 percent in the hospitality industry because, as an example, “towels don’t come from a local service.” Business-to-business sales are episodic, he said, but not really localized. Mr. Ebel said he does not have figures for Wylder. He said he does not question that Wylder will help the local economy, but that it will not have the type of impact that is promised. If housing prices go up and the housing recession ends, or if they drop, he said, Wylder will not be the cause. Mr. Ebel said a person who purchased a home

in Tilghman after the 1988 Injunction did so knowing outdoor music was prohibited or limited to 12 events a year. Now, he said, the law has changed. “Wylder can’t make an argument that their neighbors knew who was next door,” he said. “Investors knew what the law was” after 1988. Mr. Ebel said it is important to understand external cost estimates and benefits, and that a study has not been done for Tilghman. He suggested more spending on tourism research so that informed decisions can be made.

Leslie Steen, 21748 Camper Circle, Tilghman, testified against the Application. Ms. Steen said she moved to Knapps Narrows about 14 years ago, near four venues that are likely to seek approval for outdoor music. She said the Application is excessive in scale and noise level, and that the Noise Compliance Plan is insufficient. Ms. Steen recommended the noise level be reduced to 55 dBA, and that 50 dBA is above numerous recommendations by national and international organizations, including the World Health Organization. She said noise measuring equipment should be situated at any and all property lines, not at any property lines an owner chooses, and that the number of event days and hours per event should be reduced to 12 days of four hours each. She said the Applicant’s own data shows that his events last between three and three-and-a-half hours. Ms. Steen said the Board should not authorize a request for the maximum number of events, but rather, provide incremental approval. A special exception, she said, “lasts forever,” passes with the land and can only end if violated. Tilghman historically has had a problem with outdoor music, Ms. Steen said, and opponents of the Application include those who dealt with a previous lack of enforcement. Problems with outdoor music on Tilghman, she said, have led to the revocation of two special exceptions and a court order that was preceded by citizens suing Talbot County, and these scenarios will repeat if the Application is not amended. Ms. Steen said the Staff Report is flawed as it concerns the Comprehensive

Plan, the site plan, the Noise Compliance Plan and impacts on roads, and that the Application is inconsistent with the Talbot County Comprehensive Plan and Tilghman Village Master Plan. She referred to written testimony she submitted to the Board. The Tilghman Village Master Plan, she said, focus on the importance of quiet, heritage- and nature-based tourism. Ms. Steen said she had concerns about enforcement of the Noise Ordinance, and that any special exception approval should establish reasonable hours, duration and number of events and “how to manage fair treatment of other close-by venues.” She said the Board should set the permissible level at 55 dBA to help protect neighbors, and compared increasing from 55 dBA to 60 dBA to “going from 55 mph to 77 mph,” saying a five dBA increase is a 40 percent increase in noise. Ms. Steen said 60 dBA over 10-12 hours per day for 192 days out of the year will be a nuisance, and that other special event venues in the county require 200-foot setbacks, where Wylder would have events within 50 feet of one property line. Ms. Steen said Mr. Flannigan said he wanted 12 events a year when he petitioned to lift the Injunction, then rapidly escalated his requests for more events, adding that “more than 12 events must have a strong justification and must not create excessive noise when combined with neighboring event venues.” Ms. Steen said long durations of noise that is “six times the normal background ambient noise” could have adverse impacts to health, peaceful enjoyment and the value of neighboring properties. She said the Code requires continuous monitoring of noise levels, and that an adequately designed Noise Compliance Plan would give both the owner and the county data it needed to know whether the owner is compliant. Ms. Steen said the Noise Compliance Plan is insufficient in regard to one of the property lines, stating that one measurement device will be improperly located 150 feet from the source of sound as opposed to 20 feet from a property line, and that neither the Applicant nor the county will have sufficient data. Ms. Steen said new information was presented regarding

the crab deck, with music not identified on the Noise Compliance Plan, with no monitoring device planned.

Doak Conn, 21504 Wharf Road, Tilghman, testified against the Application. Mr. Conn said his home is 275 feet from the southeast boundary of the Property. He said he first visited Tilghman in 1958 and has lived on the island for 26 years. Mr. Conn questioned the accuracy of Mr. Flannigan's testimony regarding the rate at which water dries in the parking area of Wylder. He said Mr. Moody's data shows an ambient noise level of 33 dBA an hour prior to events, and that his own measurements at his home typically run in the 30-35 dBA range. Mr. Conn said arguments that outdoor music and weddings bring economic revitalization are specious, calling weddings "alcohol-fueled parties" that do not fit into the umbrella of heritage- and eco-tourism as contemplated by the Tilghman Village Master Plan, which focuses on quiet as a valued characteristic. The scale of Applicant's requests, he said, are not compatible with the existence of 44 residential properties he said are within 400 feet of the Property. Although the Noise Ordinance sets a limit of 60 dBA, Mr. Conn said, this will not protect residents from intrusive music for extended periods in a way that constitutes nuisance. He said Chairman Fisher of the Planning Commission stated that 60 dBA is loud and even if the Applicant is compliant with the Noise Ordinance, neighbors will hear and potentially be bothered by the music. Mr. Conn said the intent of the Noise Ordinance was for 60 dBA to be the maximum noise level at a property line, not "a consistent level of noise for hours from a controlled source." Mr. Conn said the Noise Compliance Plan, as approved by the Planning Commission with two dissenting votes, will not result in compliance with the Noise Ordinance, as one measuring device will be improperly located 150 feet from the source of sound, not 20 feet at the nearest property line. He said that while many in support of the Application brought up economic development as it

relates to the future of Tilghman Elementary, he has concerns about the safety of children on Tilghman. Tilghman Island's main road is challenging as it is, without the influx of 250 additional visitors, he said, and is routinely used by residents and children on mowers, golf carts, ATVs, bicycles and skateboards, as well as pets. Citizens who know how to navigate the road still encounter "close calls," he said, and newcomers will represent a greater hazard than locals. "Some of these people at an event, not all, but some, will not be in a condition to deal with what they might encounter," Mr. Conn said. "I don't want kids to be collateral damage." Mr. Conn said residents will pay a steep price in lost quiet enjoyment of their properties, and that he and his wife may consider selling their home if they have to endure the full scope of Wylder's requested events. He said outdoor music has not worked well for Tilghman in the past, and that in the 1988 Injunction case, 11 witnesses who lived between 450 feet and .7 miles from the music source testified they were deprived of peace and quiet and full enjoyment of their properties and that many felt their property values had depreciated. He said Talbot County identified music as the source of nuisance and that music was not essential to running a dining establishment in the Injunction case. When the Circuit Court for Talbot County lifted the Injunction, Mr. Conn said, the county did not object to Mr. Flannigan's arguments nor explained why its positions in 1988 were not still valid. One suggested reason, he said, was that noise abatement technology had advanced since that time; however, he said the Noise Compliance Plan did not mention noise abatement. Mr. Conn said having an event tent and two outdoor bars "within 50 feet of family homes" and property lines is "flawed public policy," that the scale, frequency and duration of Applicant's requests is not incremental and that Tilghman will experience "massive change" if the Application is approved.

Jacqueline O'Neill, 6020 Sunset Lane, Tilghman, testified in support of the Application. Ms. O'Neill said she was a Tilghman Village representative appointed for eight years, who knows both sides of the argument and wrote the Tilghman Village Master Plan that ultimately did not get incorporated into the Talbot County Comprehensive Plan. Ms. O'Neill said the majority of people she knows, including most of those who wrote letters to the Board, firmly support the development and success of Wylder. She said she has attended several events at Wylder and agreed with others who said they could not hear music in the back of Wylder from the parking area. Ms. O'Neill said several who testified against the Application are from Camper Circle, "on the other side of the bridge, not even on the island" and that they are not impacted by music at Wylder, whereas many supporters are neighbors of Wylder.

Mary Kemp, 21444 Wharf Road, Tilghman, testified in support of the Application. Ms. Kemp said her home abuts the Property. She is an active member of the community with an interest in preserving the history and culture of Tilghman, she said, currently serving as an ambassador at the Waterman's Museum and a docent at the Chesapeake Bay Maritime Museum. Ms. Kemp said she was concerned when Harrison's Chesapeake House closed, fearing that the Property would be taken over by squatters or become an "open forum for drug dealers" as she said occurred at the Tilghman Island Inn. She said she has watched with enthusiasm the transformation of the Property by Mr. Flannigan and is "delighted" that a historic hotel location is once again a destination. She said she heard much louder music and general noise when Harrison's was in operation. Ms. Kemp said she has attended events at Wylder and found the music to be at an appropriate level, not loud or disruptive. She and her husband enjoy sitting on their deck and watching the activity at Wylder, she said. Ms. Kemp said Mr. Flannigan is generous to the community and hosts events that support local causes.

Joseph Kemp, 21444 Wharf Road, Tilghman, Ms. Kemp's husband, testified in support of the Application. "We are the residents most people seem to be concerned about," he said, as his property abuts the south side of the Property. Mr. Kemp said he frequently works in his garden, 10-30 feet away from the Property and was often gardening on Saturdays and Sundays when events have taken place. "I don't recall any disturbing sounds when I'm gardening," he said. Mr. Kemp said under prior ownership, there were occasions when he and his wife could hear music from their deck, "a little louder than we might like," but that they have never had an issue during Mr. Flannigan's ownership. He was concerned when the Property was vacant that it would reduce his property value and attract squatters and criminal activity, but that Mr. Flannigan has cleaned up and revitalized the Property and that "with his investments, we are no longer embarrassed to walk our friends across the back of our property to spend time at" Wylder. Mr. Kemp described the type of music played at Wylder as "low-key" and "acoustic." He said he is pleased with the consideration Mr. Flannigan and Wylder management has shown to neighbors and that it is unreasonable to impose restrictions not imposed on other similarly situated businesses in Talbot County.

Nancy Callahan, 5899 Gibstontown Road, Tilghman, testified against the Application. Ms. Callahan said she is not opposed to outdoor music, but that the requests in the Application are excessive and contemplate 150 days of music and 42 events as long as five hours a day from Mid-April to Mid-October. She said she moved to Tilghman to enjoy peace, quiet and serenity, which could be impaired every single weekend for much of the year. Ms. Callahan suggested incremental approval and an annual review, stating that going from 12 events to 42 events and 150 days of music is too large of a step and should require a certified sound expert that can determine where sound monitors need to be placed and assess the effect on the community. If the

special exceptions are granted, she said, the Board will set a standard that will be applied to other venues in the future. Ms. Callahan said she is also concerned about the lack of infrastructure on Tilghman to address approximately 125 additional vehicles 42 times a year, calculated as two event guests per vehicle. The access road is a two-lane road with no sidewalk or bike lane, no shoulder, and drainage ditches on each side. Children, dogs and seniors use the thoroughfare to get to Phillips Wharf, the fire hall, the country store, playground and school, and could get hurt. Ms. Callahan said more scientific data and experts are needed to assess the Application.

Patricia McGlannan testified in support of the Application. Ms. McGlannan said she owns the country store on the main road in Tilghman and lives across the street from it. She is familiar with traffic patterns on Tilghman and all other topics discussed, she said. Ms. McGlannan said a week earlier, when Mr. Flannigan was asked to submit a new Noise Compliance Plan, she posted information about the Planning Commission meeting on Facebook, asking locals to stop by her store if they supported the Application. Ms. McGlannan said that approximately 200 people came to her store and signed letters of support for the Application. Since then, Ms. McGlannan said she has heard accusations that citizens were misled into signing something they didn't understand. "We're working-class folks, a lot of watermen – but they're not ignorant," she said. "They knew exactly what they were signing and know exactly what they want." Ms. McGlannan said, even if the letters submitted did not articulate tourist dollars contributing to local economic development. "Maybe they just want to have a beer in the sun on a deck while listening to music, and that's OK, too," she said. Ms. McGlannan said the majority of people she has interacted with at her store wholeheartedly support outdoor music and events on Tilghman and hope Wylder is the "first of two or three places that bring life back to Tilghman

Island.” She asked that the Board consider those who could not testify in person but instead sent a letter of support for the Application.

Upon motion and seconded, the Board voted to enter a closed session to discuss legal issues with counsel. Upon resumption of the hearing after the closed session, Mr. Smith responded to the public testimony. He said the permitted noise level has been set by the County Council after a very public and deliberative process. In response to suggestions that the Board should set lower dBA levels, Mr. Smith said Code §31-11 B. states that the Board, in a decision to approve a special exception for an event venue accessory use shall establish the maximum number of events per year, the maximum number of guests per event and structures and outdoor areas allowed to be used in conjunction with the venue. Nothing in the Code authorizes the Board to set a different noise level, he said. The maximum noise level is set by the Noise Ordinance, and the Applicant will and must comply with the Noise Ordinance. Regarding the Noise Compliance Plan, Mr. Smith said the Code does not require an expert; rather, it is intended for an applicant to show how he or she will meet the requirements of the Code, and that the Applicant has met that standard.

Chairman Jones responded to questions in public testimony about alleged new evidence of music on the Wylder deck not included in the Noise Compliance Plan. He said the Board is not the approving party for the Noise Compliance Plan, but rather, for the special exceptions, although the Planning Commission recommendation can provide input in the Board’s decision. The Planning Commission approved the Noise Compliance Plan, he said.

Mr. Smith responded to concerns about an historical lack of enforcement of noise regulations, saying that Talbot County has created tools for ensuring compliance with the recent Noise Ordinance, and has a very capable staff. The lifting of the 1988 Injunction at Mr.

Flannigan's request, Mr. Smith said, would not have occurred without the County Council's positive response. "My opinion is that happened because safeguards are in place via the new Noise Ordinance," he said. Mr. Smith reiterated that the Planning Commission is a very capable body with knowledge of the Talbot County Comprehensive Plan and made findings consistent with the Comprehensive Plan. Mr. Smith said Talbot County staff and the State Highway Administration reviewed the Application and had no objections regarding transportation or infrastructure. Mr. Smith said the nature of the Code requires an Applicant to ask for the maximum number of events, duration and attendees, in order to provide flexibility for a business to schedule as weather and other events on Tilghman allow, not as a predictor of the actual occurrence of events and music throughout the year. "We can't come back here every time we wish to schedule outdoor music," he said.

Mr. Shortall said the Board should not punish the Applicant for "what happened years ago" and that safeguards are built into the Application with dBA readings pursuant to the Noise Compliance Plan. Mr. Shortall said that, while the special exception use can continue under a potential new owner, it doesn't "go with the property" like a variance if the use is discontinued. "He's going to have his feet to the fire all the time," Mr. Shortall said of the Applicant.

Mr. Cavanaugh said the county has a new compliance officer and that residents have better means to enforce the Code, including the Noise Ordinance, than in the past, but that he had questions about addressing a situation where numerous complaints occurred.

Chairman Jones said Talbot County Planning and Zoning staff has the right to request a modification of a special exception; however, neighbors of other venues had to spend their own money to appeal and force revocation of prior special exception uses at other venues.

Mr. Salinas said Chapter 19 of the Code provides that upon notice of a violation, a noise compliance officer is required to notify, as applicable based on the violation, the appropriate board, Board of Appeals, or Planning Commission. This notification may include a recommendation to revoke a special exception, he said, or additional noise mitigation requirements.

Mr. Sewell said he doubted Wylder would be able to actually plan and host the number events requested, but not making the maximum request would make planning difficult.

Mr. Dorsey commended Mr. Flannigan's renovation efforts and said he could see how Wylder would be an attractive wedding destination. He said he believed the Applicant had met all of the special exception standards, and that, while he was concerned with the issue of noise, mechanisms are in place to ensure the Applicant's compliance with the Noise Ordinance, at a dBA level set by the County Council. Mr. Dorsey said he agreed with Applicant's maximized request as opposed to coming back to the Board repeatedly.

Chairman Jones said special exceptions are a form of permitted use. Although they require an applicant to meet statutory criteria, he said, by enumerating the uses as special exceptions the County Council recognized that adverse impacts exist, leaving the Board to decide whether or not there is something unique about a site that makes it so detrimental that the use cannot be approved. Chairman Jones said it is presumed that in the VM zone, there exist multiple places where the use would be appropriate; "The real question is, is there something about this site that makes it the wrong place?" Chairman Jones said the Property is a large parcel of approximately nine acres<sup>7</sup>, that, on the surface, appears to be the type of location contemplated for the special exception use in the VM zone. Chairman Jones said the situation is not

---

<sup>7</sup> In addition to the Property, 21551 Chesapeake, LLC owns two adjacent properties, comprising parcel 31 on the same tax map as the Property. Together, these additional properties comprise approximately 1.557 acres.

comparable to six or seven years prior; there is a new Noise Ordinance and permitted uses that did not formerly exist. “We are not here to say that means it’s going to work at the Tilghman Island Inn, Marker Five, or wherever,” he said. “Those are different locations, and we will look at each one as it comes up.” Chairman Jones said he was concerned about the proximity of Wylder to Wharf Road properties, but that agreed with his colleagues that the Applicant had satisfied the criteria for approval.

The Board then considered the application. Based on the testimony, application and exhibits, upon motion and seconded, the Board approved the requested special exception modification and variances, by a vote of five to zero.

The Board made the following findings of fact and law:

1. All legal requirements pertaining to a public meeting were met.
2. The use will be consistent with the purposes and intent of the Talbot County Comprehensive Plan. The establishment of commercial uses that serve the local community and retain the community’s character are encouraged within the villages contained within the county so long as they are consistent with the design policies and are of the appropriate size and scale for the village they are to be located in (2016 Talbot County Comprehensive Plan, Chapter 9, A., B. and C, text.). In addition, the Comprehensive Plan supports a continued mix of residential, small-scale commercial, civic and institutional uses, including infill development that is comparable in size and style with the existing homes (Talbot County Comprehensive Plan, Chapter 9, B. Village Priorities, text). Historically the mixed-use village of Tilghman has supported a variety of commercial businesses. The current and permitted mix of commercial and residential uses along Tilghman Island Road and adjacent to its waterways reflect a gradual

transition from its agricultural origins through commercial food packing and seafood harvesting to other growing maritime-related businesses along with cottage industries, small retail and hospitality enterprises. At one time, the typical small village lots fronting the roadway included grocery stores, gas stations, country stores, bakeries, general merchandise and hardware, confectionary, lumber and hardware, dressmaking, clothing and shoes, and livery stables. These businesses provided the services and goods that supported Tilghman's maritime heritage and they have existed side-by-side with residential homes for over 130 years. The Wylder Hotel is an example of a historic lodging facility, adapted over time, that has served the residents of the village for decades. The Applicant's request to expand the scope of the operation to include outdoor music in association with the restaurant, as well as an accessory event venue to complement and enhance its existing uses, is in keeping with its historic context. In addition, the County Council affirmed this historical development pattern of Tilghman by remapping the village as a VM zoning district, defined by the Talbot County Code as a mixed-use district that supports a mixture of residential, commercial, and maritime/agricultural service uses that serve residents of the village and nearby areas. Both the Restaurant with outdoor events and Accessory event venue uses are permitted uses within the district by Special Exception. In addition, The County Council adopted the Tilghman Village Master Plan (the "Plan") in September, 2017. The Plan includes a set of goals and strategies for the sustainability and revitalization of the water-oriented village and the plan reflects the County's commitment to identify strategies that can promote a viable and sustainable Tilghman economy. The plan envisions a village that meets the needs of all of its citizens, young and old, new and multi-generational, at a

scale that supports families, good jobs, small businesses, and entrepreneurship while preserving the sense of community life and village character. The Plan acknowledges the economic challenges facing the village and the loss of several establishments over the last decades. The Plan focuses on supporting a level of commercial development that serves the existing population and visitor base, enhances current economic pursuits, and makes the most of the village's limited land area while ensuring that new construction and redevelopment protect the Chesapeake Bay and the village's traditional character. Historically in Tilghman, water-enhanced businesses such as restaurants, inns and hotels have operated in tandem with water-dependent businesses such as marinas, charter boat businesses, boat maintenance and repair facilities and dry boat storage. In addition, many of these water-dependent businesses rely on the customers from hotels, inns and restaurants to survive. The Wylder Hotel, with its marina, is no different. The uses requested by Wylder are complementary to the hotel and restaurant but they are also essential to its viability and correspondingly to the success and viability of water-dependent and water-related businesses on its property and throughout the village. A loss of businesses along the waterfront increases the risk of losing the village's remaining commercial properties to additional residential development; further restricting public access to its waterways and accelerating the loss of its traditional maritime heritage.

3. The use will comply with the standards of the zoning district in which it is located, except as those standards may have been modified by the granting of a variance. Applicant is requesting no variances with this application. The land uses are permitted by special exception in the VM zoning district and the uses will meet the bulk and design standards of the district with the exception of the perimeter landscaping requirements for

the accessory event venue use. The scale of the uses are in keeping with the scale of the hotel; the event venue use is accessory to the hotel and the events and associated tents are intended to be temporary. In addition, the outside events and tents associated with the existing restaurant are also temporary in nature and will occur over existing lot coverage; the patio and outdoor stage. The proposed placement of the tents associated with the accessory event venue are placed in a location that does not conflict with the temporary overflow parking areas. Per *Talbot County Code* §190-41, intermittent or temporary parking areas may use grass with approval from the approving authority. The size of the overflow parking areas to accommodate additional parking are such that they cannot be located to the rear or side of the hotel. Since the overflow parking areas are intended to be temporary, parking area interior landscaping and landscape edge are not necessary to visually screen the overflow parking areas. No permanent lighting or signage is proposed as part of the application. Applicant will need to confirm that the existing trash storage area associated with the hotel and restaurant will be used for the two land uses. The accessory event venue use requires a Type C landscape yard between outdoor use areas and adjoining residential properties, as indicated by §190-33.11.A.3. The perimeter landscaping requirement is intended to visually buffer the uses from adjoining residences and to mitigate negative impacts on residential properties related to privacy, visual appearance and lighting. The requirements for the type C landscape yard can be found in §190-40.5.E, Table V-4 Perimeter Landscape Yard Types. The Applicant has specified that he is requesting a waiver from the Planning Commission as part of major site plan review. The Applicant has stated that the waiver is being requested due to the fact that the proposed use areas are already screened by existing mature vegetation and/or fencing. As

indicated by the Applicant, the property owner to the north already has an existing fence, and the hotel has planted trees for additional screening along the portion of the property line that is in proximity of the use area for outdoor events associated with the restaurant. The Noise Compliance Plans provided show that the northeastern property line is screened by approximately 13 evergreen trees ranging from 7-25 feet in height. The plans also indicate the southeastern property lines are screened by a mix of full-grown evergreens and a continuous line of cypress trees approximately 30 feet in height. An alternate landscape plan should meet the general intent of the landscaping standards and must provide sufficient screening and separation between the uses and adjoining residential properties. The Applicant should fully address how his alternate perimeter landscape proposal can mitigate impacts on residential property related to privacy, visual appearance and lighting to the same extent as Perimeter Landscape Type C as described in §190-40, Table V-4. Landscape Type C is a semi-opaque landscape yard required adjacent to the use areas with an average landscape yard width of 25 feet and a minimum width of 20 feet; 4 canopy trees per 100 linear feet, 6 understory trees per 100 linear feet, and 25 shrubs per 100 linear feet (50% or more evergreen). A 5-foot opaque fence in combination with the landscaping materials can reduce the minimum widths by 5 feet.

4. The scale, bulk and general appearance of the use will be such that the use will be compatible with adjacent land uses and with existing and potential uses in its general area and will not be detrimental to the economic value of neighboring property. The hotel has been in existence on the property since the early 1900s with later additions to include the restaurant and marina. The current owner has been operating in this capacity since acquiring the property. The Applicant has indicated that he has spent a significant

amount of money in clean-up and renovations of the property to help improve and revitalize the hotel and associated restaurant and marina. As indicated by the Applicant, the amplified music for the restaurant outdoor events will take place on any day Wednesday through Sunday with a starting time no earlier than 10 a.m. and an end time no later than 10 p.m. not in excess of 60 dBA.<sup>8</sup> Additionally, the request specifies that outdoor music would be proposed to take place between April 15 and November 15 each year. The proposed location for the digital decibel reader for the outdoor amplified music is shown on the Applicant's noise compliance plan to be at the northeastern property line separating Tax Parcel 10 and Tax Parcel 149. In accordance with the noise compliance plan submitted for the accessory event venue use, the Applicant is requesting approximately 50 events per year to take place between the hours of 10 a.m. and 10 p.m. and would also require compliance of the dBA standards mentioned above and specified under §92-4 of the Talbot County Noise Ordinance. The proposed location for the digital decibel reader for the accessory event venue will be located at the southeastern property line separating Tax Parcel 149 and Tax Parcel 154. The Applicant has submitted a site plan associated with the Special Exception not to specified scale as the proposed improvements to this site for both specified uses are not to include permanent structures. As such, the Applicant is proposing that the temporary tents associated with the event venue use be located no closer than 50 feet from existing property lines and will not be located in the modified buffer area.

5. The use will not constitute a nuisance to other properties and will not have

---

<sup>8</sup> The Noise Ordinance requires the noise level not to exceed beyond the noise source property line the sound decibel limits of 60 dBA between the daytime hours of 7 a.m. and 8 p.m. (ending at 10 p.m. on Fridays and Saturdays) and not to exceed 55 dBA during the nighttime hours.

significant, adverse impacts on the surrounding area due to trash, odors, noise, glare, vibration, air and water pollution, and other health and safety factors or environmental disturbances. The Applicant has indicated that the proposed uses are not expected to constitute a nuisance to neighboring properties due to noise, odor glare, vibration or air and water pollution. The areas to be utilized for the accessory event venue use will be in compliance with the required setbacks, including the modified buffer setback on the subject lands. The tents to be utilized for the event will be temporary so no permanent structural improvements are proposed as part of this use. In addition, the proposed restaurant with outdoor events use, along with the proposed areas for temporary tents, will take place atop of an existing brick patio and wood deck. Therefore, no additional lot coverage will be created as part of this use. As indicated by the Health Department, the Applicant will be required to specify whether or not it is his intention to utilize port-a-potties for these events. If so, the Applicant will need to clarify whether or not it will be the hotel's responsibility for the waste disposal associated with these events. The Applicant has submitted a Noise Compliance Plan for the proposed accessory event venue use with his site plan application that defines how he plans to comply with the Noise Ordinance with regards to the time in which music may be played and the decibel level it must be at when leaving the property. A digital decibel reader is provided with this plan that provides constant monitoring of noise levels at the property line from one hour before an event to one after an event's conclusion. The proposed restaurant with outdoor events use also has a Noise Compliance Plan submitted with the site plan application. This plan provides details similar to the plan provided for the event venue use to ensure the use will be in compliance with the Noise Ordinance. The Noise

Ordinance spells out the enforcement protocols that the County has developed, which includes not exceeding the decibel sound limits beyond the noise source property line or enforcement protocols may go into effect including a warning, potential Notice of Violation and Penalty Assessment or the implementation of additional noise mitigation measures. Applicant confirmed that the restaurant's existing bathrooms will serve patrons attending any events associated with this use, and that in the event portable toilets are needed, Applicant will comply with Health Department approval. Likewise, Applicant confirmed that Wylder will also handle all waste disposal associated with this proposed use.

6. The use will not have a significant adverse impact on public facilities or services, including roads, schools, water and sewer facilities, police and fire protection or other public facilities or services. As noted above the property is currently served by onsite sewer. Any waste disposal outside of using this system will need to be approved by the Health Department. The uses will utilize the same entrance as the patrons for the restaurant, marina and hotel off of Chesapeake House Drive, which is accessed via Tilghman Island Road. Staff has suggested a notation be added to any approved site plan depicting the overflow parking areas to ensure that they remain in vegetation (turf) as they exist today. By retaining this vegetation, the Applicant would reduce the risk of possible sediment runoff to neighboring properties. The proposed uses would be served by the Tilghman Island Volunteer Fire Department as well as the Talbot County Sheriff's Department just as the restaurant, hotel and marina are today.

7. The use will not have a significant adverse effect upon marine, pedestrian or vehicular traffic. The uses will not generate any permanent structural improvements on

the site and will not negatively impact traffic from the marina or Dogwood Cove. The tents proposed for the accessory event venue use will be located outside the modified buffer setback to ensure impacts to tidal waters will be minimal. The use areas are closely associated with the hotel to ensure that the onsite impacts to the site will remain in close proximity to already existing uses and thereby minimizing adverse impacts to pedestrians or vehicular traffic. In particular, the restaurant outdoor event use is associated with the operation of the restaurant over existing onsite improvements to

8. The use will not produce traffic volumes which would exceed the capacity of public or private roads in the area or elsewhere in the County, based on the road classifications established in Chapter 134, the Talbot County Roads and Bridges Ordinance, and other applicable standards for road capacity. Chesapeake House Drive is located directly off of Tilghman Island Road, a state-maintained highway with sufficient capacity to accommodate traffic volumes expected to be generated from the temporary events. The road has accommodated other, much larger events on the island. Email correspondence from the State Highway Assistant Engineer dated October 15, 2018 indicates the State Highway Administration has no comments or concerns with regards to what is being proposed with these special exceptions uses.

9. Any vehicle access to proposed off-street parking areas and drive-in facilities will be designed to minimize conflicts between vehicular, bicycle and pedestrian traffic and to minimize impacts on adjacent properties and on public or private roads. In addition, any resulting commercial and truck traffic should not use a residential street nor create a hazard to a developed residential area. Currently, the Property is approved for 69 spaces for the restaurant, hotel and marina that have functioned adequately. Applicant is

proposing a maximum guest capacity of 250 people for the accessory event venue use, which requires 125 parking spaces. Applicant's site plan (and Noise Compliance Plan) shows two overflow parking areas (A & B) that County staff has determined to be, and Applicant's testimony indicates are, sufficient to accommodate the uses on the property. County staff recommended the overflow parking areas be managed in a manner that maintains the turf and minimizes the potential for erosion and sediment reaching tidal waters. These overflow parking areas will only be utilized during the time when there is an event related to the accessory event venue use occurring on the property. The restaurant with outdoor events use will utilize the provided 69 spaces that are existing today, as the parking standards for the restaurant and the use are the same. The Property is one of three parcels accessed off of Chesapeake House Drive. Chesapeake House Drive has direct access onto Tilghman Island Road (MD Route 33). Due to the Property's adjacency to the state highway, it is not predicted that the uses would have any adverse impacts on residential roads or the pedestrian or bicycle traffic using them. Furthermore, the two additional properties accessed off of Chesapeake House Drive are currently owned by 21551 Chesapeake, LLC.

10. The use will not significantly adversely affect wildlife with respect to the site's vegetation, water resources, or its resources for supplying food, water, cover, habitat, nesting areas, or other needs of wildlife. Staff has recommended that the overflow parking be managed in such a way as to retain the existing vegetated ground cover to eliminate any runoff or negative environmental impacts to neighboring properties and tidal waters. As mentioned in the Critical Area Commission's comments, the tents associated with the outdoor event area for the restaurant will be limited to taking place

over existing lot coverage and the tents will only be permitted to be utilized for the duration of the event. The areas for the accessory event venue use and overflow parking are located on turf, will not increase impervious lot coverage and will not impact any wetlands or other habitat areas. The Critical Area Commission staff has asked that any approval granted be conditioned such that the tent will not be permitted to encroach into the 50-foot modified buffer setback.

11. The use will not significantly adversely affect adjacent existing agricultural uses. There are no agricultural land uses on properties directly adjacent to the subject lands.

HAVING MADE THE FOREGOING FINDINGS OF FACT AND LAW, IT IS, BY  
THE TALBOT COUNTY BOARD OF APPEALS,

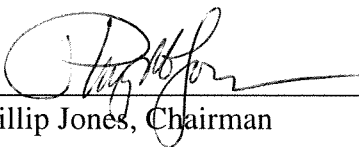
RESOLVED, that the Applicant, **JOHN FLANNIGAN** (Appeal No. 18-1690) is  
**GRANTED** the requested special exceptions consistent with the evidence presented to the Board of Appeals, subject to the following conditions:

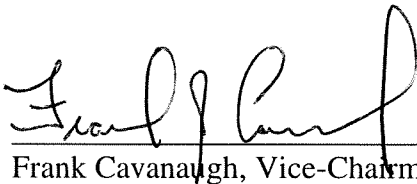
1. The temporary outdoor tents associated with the restaurant with outdoor events shall be strictly limited to being located in a manner that covers only the existing lot coverage as shown as shown on the plan.
2. A specified maximum number of days/hours that the tents will be erected and disassembled prior to and after conclusion of an event must be provided on the site plan to ensure the tents will be temporary.
3. Any waste disposal outside of using this system will need to be approved by the Health Department.

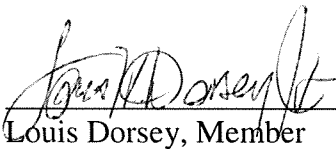
4. The site plan and noise compliance plans shall indicate compliance of the dBA noise standards for daytime and nighttime hours as specified under §92-4 of the Talbot County Noise Ordinance.
5. The temporary tents associated with the accessory event venue shall not encroach into the modified buffer area and shall be located no closer than 50 feet from existing property lines.

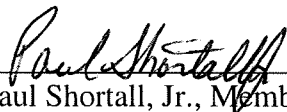
GIVEN OVER OUR HANDS, this 29th day of MAY, 2019.

**TALBOT COUNTY BOARD OF APPEALS**

  
Phillip Jones, Chairman

  
Frank Cavanaugh, Vice-Chairman

  
Louis Dorsey, Member

  
Paul Shortall, Jr., Member

  
John Sewell, Member